WETMORE *v.* TENNESSEE COPPER COMPANY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF TENNESSEE.

No. 500. Motion to dismiss appeal. Submitted October 11, 1910.—Decided November 28, 1910.

Ladew v. *Tennessee Copper Company*, *ante*, p. 357, followed to effect that the Circuit Court of the United States did not have jurisdiction of this case.

THE facts, which involve the jurisdiction of the Circuit Court, are stated in the opinion.

Mr. Charles Seymour for appellant.

Mr. Howard Cornick, *Mr. John H. Frantz* and *Mr. Martin Vogel* for appellee.

MR. JUSTICE HARLAN delivered the opinion of the court.

The plaintiff, George Peabody Wetmore, a citizen of Rhode Island, is the owner in fee and in possession of large tracts of land, valuable for timber, farming and residence purposes, in Polk County, Eastern District of Tennessee. The defendants are the same corporations as those mentioned in *Ladew &c.* v. *Tennessee Copper Co.*, decided, *ante*, p. 357.

The plaintiff, after setting out substantially the same facts as those stated in the *Ladew case* in reference to the conduct by each defendant of its business and to the injury done to his lands by the mode in which that business is conducted, seeks the same relief as to his lands in Tennessee as that asked by the plaintiffs in the other case as to their lands in Georgia. Each defendant appeared specially—the defendant, Tennessee Copper Company, for the purpose of objecting to the jurisdiction of the Circuit Court of the United States sitting in Tennessee, to give the relief asked by the bill against it, and the British corporation for the purpose of moving to dismiss the bill because of misjoinder of parties, and because of want of jurisdiction in that court to sustain an action against it in Tennessee for the wrong alleged to have been done to the present plaintiffs.

The Circuit Court dismissed the bill as to the Tennessee Copper Company, but overruled the motion to dismiss the bill as to the British corporation, the court being of the opinion that it had jurisdiction of the latter corporation. From that decree, so far as it related to the Tennessee Copper Company, Wetmore appealed to this court. In conformity with § 5 of the act of Congress of March 3, 1891, c. 517, 26 Stat. 826, the question of

jurisdiction was certified by the Circuit Court to this court.

On the authority of *Ladew* v. *Tennessee Copper Company, ante*, p. 357, the decree of the court below must be affirmed.

It is so ordered.